

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

BRUD ROSSMAN,

Plaintiff,

v.

No. 15cv1170 RJ/KBM

STEVEN CASE, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

THIS MATTER come before the Court on Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs (Short Form), Doc. 2, filed December 29, 2015 ("First Application"), and on Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs (Short Form), Doc. 6, filed December 31, 2015 ("Second Application"). For the reasons stated below, the Court will **DENY** both Applications. Plaintiff shall have 21 days from entry of this Order to pay the \$400.00 fee¹ for instituting a new case or show cause why this case should not be dismissed without prejudice for failure to pay the filing fee. Failure to timely pay the filing fee or show cause may result in dismissal of this case without prejudice.

Plaintiff filed his First Application using the "Short Form." Because the Short Form Application does not provide sufficient information for the Court to determine whether a plaintiff is unable to pay the required fees, the Court requires plaintiffs seeking to proceed without prepaying fees to file the "Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)." The Court sent Plaintiff a Long Form Application, ordered Plaintiff to file the Long Form Application within twenty-one (21) days, and notified Plaintiff that failure to

¹ The fee for instituting any civil action, suit or proceeding is comprised of a \$350.00 filing fee, *see* 28 U.S.C. §1914, and a \$50.00 administrative fee.

timely file an “Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)” may result in denial of Plaintiff’s application to proceed without prepaying fees or costs. *See Doc. 4, filed December 30, 2015.* Plaintiff did not file the Long Form Application by the January 20, 2016 deadline. The Court will, therefore, deny Plaintiff’s First Application. *See Lister v. Dep’t of Treasury, 408 F.3d 1309, 1313 (10th Cir. 2005)* (concluding “district court did not abuse its discretion in denying IFP status after [Plaintiff], having been specifically instructed on how to establish indigent status, failed to fill out the proper forms or to otherwise provide the district court with the requisite information”).

Plaintiff filed his Second Application using the “Short Form” two days after filing his First Application and one day after the Magistrate Judge entered her order instructing Plaintiff to use the Long Form Application. Because Plaintiff’s Second Application is essentially identical to his First Application, the Court will also deny the Second Application.

Because the Court has denied Plaintiff’s Applications to proceed *in forma pauperis*, Plaintiff must, within twenty-one (21) days of entry of this Order, pay the \$400.00 fee for instituting a new case or show cause why this case should not be dismissed without prejudice for failure to pay the filing fee. Failure to timely pay the filing fee or show cause may result in dismissal of this case without prejudice.

The Court mailed copies of the first six documents on the docket to Plaintiff at the address provided by Plaintiff. *See Doc’s 1-6.* All of those documents, except Doc. 3, Notice of Assignment of United States Magistrate Judge Karen B. Molzen to this case, have been returned as “undeliverable.” *See Doc’s 7-12.* The Court reminds Plaintiff of his obligation to provide the Court with his current address. *See D.N.M.LR-Civ. 83.6, Change of Address (“All attorneys of*

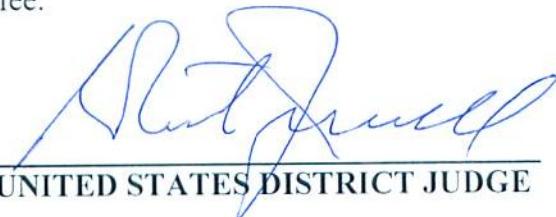
record and parties appearing *pro se* have a continuing duty to notify the Clerk, in writing, of any change in their firm name, mailing addresses, telephone numbers, facsimile numbers, or electronic addresses").

IT IS ORDERED that Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs (Short Form), Doc. 2, filed December 29, 2015, is **DENIED**.

IT IS ALSO ORDERED that Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs (Short Form), Doc. 6, filed December 31, 2015, is **DENIED**.

IT IS FURTHER ORDERED that Plaintiff shall have 21 days from entry of this Order to pay the \$400.00 fee for instituting a new case or show cause why this case should not be dismissed without prejudice for failure to pay the filing fee.

1-25-16



UNITED STATES DISTRICT JUDGE